

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application is in condition for allowance except for the presence of claims 1-7 and 18-36 directed to inventions non-elected without traverse. Accordingly, claims 1-7 and 18-36 have been cancelled.

### ***Response to Arguments***

2. Applicant's arguments, see pages 11-14, filed 8 March 2011, with respect to the rejection of claims 8-17 under 35 U.S.C. 103(a) citing at least Bertrand et al. in view of Weijand et al. have been fully considered and are persuasive. The rejection of claims 8-17 has been withdrawn.

### ***Allowable Subject Matter***

3. **Claims 8-17** are allowed.
4. The following is an examiner's statement of reasons for allowance:

No prior art of record teach and/or fairly suggest a device for electronically locating a valve of an implanted flow control device, and non-invasively determining a setting of the valve, comprising: an indicator tool having a housing that is removably mounted to a locator tool; wherein the indicator tool comprises an electronic compass module for sensing the orientation of target magnetic fields generated by the implanted flow valve, and a locator tool interface module for electronically communicating the

Art Unit: 3735

sensed magnetic field data from the electronic compass module to the processor carried in the locator tool; wherein the locator tool processing module receives and stores background magnetic field data, receives the target magnetic field data from the electronic compass module when the indicator tool is located above an implanted flow control valve having a magnetic indicator device, electronically determines the orientation of the magnetic indicator device from the background and target data, and electronically determines the valve setting based on the calculated orientation of the magnetic indicator device.

The closest prior art of record, Bertrand et al. and Weijand et al. as cited in the previous Office action, teaches an electronic magnetic-based indicator tool for determining the valve setting of an implanted flow control device as claimed. However the combination of Bertrand et al. and Weijand et al. fails to disclose that the target magnetic field sensors are carried in the indicator tool housing while the processor is carried separately in the locator tool housing, and that background magnetic field data is received and stored by the processor module for then electronically determining the valve setting based on this information. Bertrand teaches all the elements are contained in a single unit, are not electronic, and background magnetic field data is not sensed separately from the target data. The electromagnetic field sensors of Weijand et al. are tuned to specific frequencies via circuitry to identify the signals from the implanted device, and thus do not truly separately sense background magnetic field data. Furthermore, the processor of Weijand et al. does not receive/store background field data separately from the target field data. Applicant's specification provides criticality for

Art Unit: 3735

these limitations as it states that detecting the background magnetic field data separately and removed from the target magnetic field data ensures that ambient fields may be measured without influence from the magnetic fields of the implanted valve.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARRIE R. DORNA whose telephone number is (571)270-7483. The examiner can normally be reached on Monday - Friday from 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3735

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Marmor, II/  
Supervisory Patent Examiner  
Art Unit 3735

/C. R. D./  
Examiner, Art Unit 3735